

- A.** UNDERSIGNED ATTORNEY APPOINTED TO REPRESENT MINOR CHILDREN. The undersigned Attorney Charles S. Frigerio was appointed guardian ad litem for minor children G.D.G. and A.G.G. by order signed on May 7, 2021 (Dkt. 32) by this Honorable Court in the above entitled and numbered cause.
- B.** PROPOSED SETTLEMENT AGREEMENT. The proposed Settlement Agreement is as follows:
1. Net Settlement to be Invested for Minor Children G.D.G. and A.G.G.:
- (a) Each child will receive the amount of \$13,575 in an annuity.

II.
GUARDIAN AD LITEM'S RECOMMENDATION TO THE COURT.

- A. The matter addressed by this report is whether the proposed settlement is in the best interest of the minor children.
- B. Based on the totality of the circumstances, the undersigned attorney is of the opinion that the proposed settlement is in the best interest of each minor child and recommends to the Court that it be approved.

III.
REASONS REGARDING GUARDIAN AD LITEM'S RECOMMENDATIONS

A. SOURCES EVALUATED.

In making the aforesaid recommendation the undersigned attorney has evaluated the following:

- (1) Reviewed the issues of liability and affirmative defenses including the defense of qualified immunity for the officers involved.
- (2) Reviewed Plaintiffs' case file including pleadings and discovery and video cam evidence concerning the incident made the basis of this suit. Majority of this incident was videotaped.
- (3) Interview with the Minor's Mother, Nessa Guzman.

B. PLAINTIFF'S ALLEGATIONS:

(1) **OVERVIEW OF THE CASE.**

- (a) Plaintiff's complaint alleges that on the date of the incident in question, May 12, 2018, that Plaintiff's decedent, Gaspar David Guzman was subjected to excessive force and negligence by members of the San Antonio Police Department named in the suit. Plaintiffs' Decedent was attending a party at the residence of friends in the City of San Antonio. Plaintiffs' Decedent had consumed alcoholic beverages during the day at said party. Police were called to the party when a disturbance erupted. As officers from the San Antonio Police Department attempted to arrest Plaintiff's Decedent, a struggle occurred and Plaintiffs' Decedent was wrestled to the ground and a drive stun taser was applied. Plaintiff's Decedent was successfully handcuffed and placed in the back seat of a police patrol car. Plaintiffs' Decedent was able to remove himself from the patrol car and was wrestled to the ground. Shortly after the second incident, Plaintiffs' Decedent began breathing heavily. EMS was called to the

scene, both officers and EMS attempted to revive Plaintiffs' Decedent but were unsuccessful.

(2) **DEFENDANT'S THEORY OF DEFENSE:**

- (a) Defendant City of San Antonio denied Plaintiffs' allegations of excessive force and denied any custom or policy of excessive force as alleged. The individual San Antonio Police Officers assert their entitlement to qualified immunity.

(3) **FACTUAL BACKGROUND:** Plaintiffs' Decedent was 36 years old at the time of his death. Minors G.D.G. is 11 years old and A.G.G. is 10 years old. The total settlement amount is \$35,000.00. Each Child is to receive an annuity of \$13,575.

- C. **RECOMMENDATION:** The Guardian Ad Litem recommends settlement in the amount of \$35,000.00 wherein each Minor Child **G.D.G.** and **A.G.G.** receives the sum of \$13,575.00 in an annuity. Given the complexity of a Section 1983 lawsuit and the burden of Plaintiff to overcome the qualified immunity defense, the majority of this is captured on video tape, this settlement is in the best interest of both children.

WHEREFORE, PREMISES CONSIDERED, the undersigned Guardian Ad Litem believes that the proposed settlement is in the best interest of each minor child and recommends that the proposed settlement be approved by the Court.

Respectfully submitted,

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BY: /s/ Charles S. Frigerio

CHARLES S. FRIGERIO

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AD LITEM FOR MINOR CHILDREN G.D.G.
and A.G.G.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of August, 2021, I electronically filed the foregoing Guardian Ad Litem's Report to the Court regarding Proposed Settlement for the Minor Children with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all ECF Participants in this matter.

/s/ Charles S. Frigerio
CHARLES S. FRIGERIO